

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

ORDER

-against-

20-CR-0442 (EK)

BAIMADAJIE ANGWANG,

Defendant.

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ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

Pursuant to Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, the government has a continuing obligation to produce all evidence required by the law and the Federal Rules of Criminal Procedure. See id., 373 U.S. at 87 (holding that due process requires disclosure of “evidence [that] is material either to guilt or to punishment” upon request); Kyles v. Whitley, 514 U.S. 419, 437-38 (1995) (holding that the obligation to disclose includes producing evidence “known only to police investigators and not to the prosecutor” and that “the individual prosecutor has a duty to learn of any favorable evidence known to others acting on the government’s behalf . . . , including the police”); United States v. Agurs, 427 U.S. 97, 107 (1976) (holding that the duty to disclose exculpatory evidence applies even when there has been no request by the accused); Giglio v. United States, 405 U.S. 150, 153-55 (1972) (holding that Brady encompasses impeachment evidence); see also Fed. R. Crim. P. 16(a) (outlining information subject to government disclosure); United States v. Marshall, 132 F.3d 63, 67-68 (D.C. Cir. 1998) (holding that the disclosure requirements of Federal Rule of Criminal Procedure 16(a)(1)(C) apply to inculpatory, as well as exculpatory, evidence).

The government's Brady obligation to provide exculpatory evidence in a timely manner is not diminished by the fact that such evidence also constitutes evidence that must be produced later pursuant to the Jencks Act, 18 U.S.C. § 3500, or by the fact that such evidence need not be produced according to Rule 16. See United States v. Tarantino, 846 F.2d 1384, 1414 n.11 (D.C. Cir. 1988); see also Advisory Committee Note to Fed. R. Crim. P. 16 (1974) ("The rule is intended to prescribe the minimum amount of discovery to which the parties are entitled."). Where doubt exists as to the usefulness of the evidence to the defendant, the government must resolve all such doubts in favor of full disclosure. See United States v. Paxson, 861 F.2d 730, 737 (D.C. Cir. 1988).

Accordingly, the Court, *sua sponte*, directs the government to produce to defendant in a timely manner any evidence in its possession that is favorable to defendant and material either to defendant's guilt or punishment. This government responsibility includes producing, during plea negotiations, any exculpatory evidence in the government's possession. The government is further directed to produce all discoverable evidence in a readily usable form.

Finally, if the government has identified any information which is favorable to the defendant but which the government believes not to be material, the government shall submit such information to the Court for *in camera* review.

SO ORDERED.

**Dated: Brooklyn, New York
October 28, 2020**

/s/ Roanne L. Mann
ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE